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Attorneys for Plaintiffs,  
SONY BMG MUSIC ENTERTAINMENT;  
LAFACE RECORDS LLC; UMG  
RECORDINGS, INC.; ZOMBA  
RECORDING LLC; ATLANTIC  
RECORDING CORPORATION; ARISTA  
RECORDS LLC; and ELEKTRA  
ENTERTAINMENT GROUP INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

SONY BMG MUSIC ENTERTAINMENT, a  
Delaware general partnership; LAFACE  
RECORDS LLC, a Delaware limited liability  
company; UMG RECORDINGS, INC., a  
Delaware corporation; ZOMBA RECORDING  
LLC, a Delaware limited liability company;  
ATLANTIC RECORDING CORPORATION, a  
Delaware corporation; ARISTA RECORDS  
LLC, a Delaware limited liability company; and  
ELEKTRA ENTERTAINMENT GROUP INC.,  
a Delaware corporation,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. 3:07-CV-04877-SI

Honorable Susan Illston

***EX PARTE APPLICATION TO EXTEND  
TIME TO SERVE DEFENDANT AND  
[PROPOSED] ORDER***

1 Plaintiffs respectfully request, pursuant to the Federal Rules of Civil Procedure, Rules 4(m)  
2 and 6(b)(1)(A), that the Court grant an additional 90 days to serve Defendant with the Summons and  
3 Complaint. As further explained below, Plaintiffs have believe they have discovered the identity of  
4 the Doe defendant in this case and have contacted this person in an attempt to resolve the dispute  
5 without further litigation; Plaintiffs thus seek additional time to effectuate service in the event the  
6 dispute is not resolved and Plaintiffs file a First Amended Complaint naming Defendant  
7 individually. In support of their request, Plaintiffs state as follows:

8 1. The current deadline for service of process is January 18, 2008. The initial case  
9 management conference is set for April 18, 2008, at 2:00 p.m. The case management conference  
10 was continued twice, once by the Court of its own accord and once upon Plaintiffs' request by the  
11 Court's Order of December 21, 2007.

12 2. Plaintiffs filed their Complaint for Copyright Infringement against Defendant John  
13 Doe ("Defendant") on September 20, 2007. Plaintiffs did not have sufficient identifying information  
14 to name Defendant in the Complaint, but were able to identify Defendant by the Internet Protocol  
15 address assigned to Defendant by Defendant's Internet Service Provider ("ISP") – here, California  
16 State University, Monterey Bay.

17 3. In order to determine Defendant's true name and identity, Plaintiffs filed their *Ex*  
18 *Parte* Application for Leave to Take Immediate Discovery on September 20, 2007, requesting that  
19 the Court enter an Order allowing Plaintiffs to serve a Rule 45 subpoena on the ISP.

20 4. The Court entered an Order for Leave to take Immediate Discovery on October 10,  
21 2007, which was served upon the ISP along with a Rule 45 subpoena. On November 30, 2007, the  
22 ISP responded to Plaintiffs' subpoena, identifying the individual associated with the Internet  
23 Protocol address supplied to the ISP by Plaintiffs.

24 5. On December 18, 2007, Plaintiffs sent a letter to the individual identified by the ISP,  
25 notifying him of Plaintiffs' claims and encouraging him to contact Plaintiffs to attempt to amicably  
26 resolve this matter. In subsequent telephone conversations beginning on December 26, 2007, the  
27 individual questioned whether the ISP properly identified him and has advised that he has been in  
28

1 contact with the ISP but, as of Plaintiffs' last contact, had so far been unable to speak to the  
 2 appropriate person at the University because of the winter holidays.

3 6. Plaintiffs wish to give the individual identified by the ISP a reasonable period of time  
 4 to conclude his investigation of the identification issue and any negotiations aimed at resolving this  
 5 case. Plaintiffs only wish to proceed with the litigation if this individual is the infringer of Plaintiffs'  
 6 copyrights (and the case cannot be settled), but do not wish to amend the complaint to name him  
 7 individually if he is not the infringer.

8 7. Given the circumstances of this case, Plaintiffs respectfully request an additional 90  
 9 days to effectuate service.

10 8. Plaintiffs submit that their efforts to give written notice of their claim to the  
 11 individual identified by the ISP and subsequent efforts to resolve the matter before naming him in  
 12 the lawsuit constitute good cause for any delay in perfecting service. *See Ritts v. Dealers Alliance*  
 13 *Credit Corp.*, 989 F. Supp. 1475, 1479 (N.D. Ga. 1997) (stating good cause standard for service  
 14 extensions). Moreover, unlike a traditional case in which the defendant is known by name and  
 15 efforts to serve can begin immediately after filing the complaint, in this case Plaintiffs first had to  
 16 obtain the identity of the defendant through the subpoena to the ISP. This Court has discretion to  
 17 enlarge the time to serve even where there is no good cause shown. *Henderson v. United States*, 517  
 18 U.S. 654, 658 n. 5 (1996).

19 9. Because the copyright infringements here occurred in 2007, the three-year limitations  
 20 period for these claims has not expired. *See* 17 U.S.C. § 507(b) (2000). There can thus be no  
 21 prejudice to the Defendant from any delay in serving the Complaint.

22 10. Plaintiffs will provide the Defendant with a copy of this request and any Order  
 23 concerning this request when service of process occurs.

24  
 25 Dated: January 17, 2008

HOLME ROBERTS & OWEN LLP

26  
 27 By: /s/ Matthew Franklin Jaksa


28 MATTHEW FRANKLIN JAKSA  
 Attorney for Plaintiffs

**ORDER**

Good cause having been shown:

**IT IS ORDERED** that, pursuant to the Federal Rules of Civil Procedure, Rules 4(m) and 6(b)(1), Plaintiffs' time to serve the Summons and Complaint on Defendant be extended to April 17, 2008.

Dated: \_\_\_\_\_

By:   
\_\_\_\_\_  
Honorable Susan Illston  
United States District Judge